

STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL & LABOR RELATIONS  
STANDARD OPERATING PROCEDURE

Classification  
DOPLR-07

**VII. Overtime Exemption**

A. Purpose

The purpose of this SOP is to provide guidelines for determining whether a position meets the requirements to be exempt from overtime.

B. Scope

This SOP applies to all positions in the classified service, partially exempt service, and exempt service covered by the Fair Labor Standards Act (FLSA).

C. Authority

- 29 USC 201, et seq., Fair Labor Standards Act of 1938, as amended. (Revised May 2011)
- 2 AAC 07.390 - Overtime Compensation.
- Alaska Administrative Manual 270 - Compensation.

Collective Bargaining Agreements:

- Labor, Trades and Crafts Unit (LTC) Collective Bargaining Agreement--Article 13
- Alaska Public Employees Association (APEA)/Supervisory Unit (SU) Collective Bargaining Agreement--Article 25
- Public Safety Employees Association (PSEA) Collective Bargaining Agreement--Article 15
- Confidential Employees Association (CEA) Collective Bargaining Agreement--Article 7
- Alaska State Employees Association (ASEA)/General Government Unit (GGU) Collective Bargaining Agreement--Article 22
- Alaska Correctional Officers Association Correctional Officers Unit (CO) Collective Bargaining Agreement--Article 13
- Alaska Vocational Technical Teachers Association (AVTECTA)--Article 19
- Inlandboatmen's Union of the Pacific (IBU)--Rule 22
- Marine Engineers Beneficial Association (MEBA)--Rule 22
- Masters, Mates and Pilots (MM&P)--Rule 22

D. General Information

1. Positions may be overtime eligible by application of the FLSA, by collective bargaining agreement, or by determination of the Commissioner, Department of Administration.
2. The overtime status of a position is evaluated each time it is reviewed for proper classification, i.e., for every new or revised Position Description (PD), even if submitted as an update.
3. For each classified and partially exempt position for which an overtime exemption is claimed, the decision must be documented.

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4. For flexibly staffed positions, a FLSA worksheet must reflect each level that meets an exemption under FLSA whenever the PD is updated.
5. Although PDs are not required for positions in the exempt service, sufficient information about the duties must be gathered to make a determination. **Department HR Services establishes exempt positions and documents the FLSA status.**

E. Overtime Exempt Codes

1. Two codes are used in OPD, Alaska Payroll System (AKPAY) databases, and on computerized PCN listings to indicate whether a position is overtime eligible:
  - a) **Code N:** Position is not exempt from the FLSA overtime eligibility provisions and therefore:
    - The incumbent of the position must be compensated for overtime in accordance with the FLSA. **OR**
    - The incumbent of the position must be compensated for overtime by collective bargaining agreement. **OR**
    - The incumbent of the position must be compensated for overtime by decision of the Commissioner of Administration. (rare)
  - b) **Code Y:** Position is exempt from the FLSA overtime provisions, and has not been made eligible for overtime pay by collective bargaining agreement or a decision of the Commissioner of Administration; therefore, the incumbent of the position is **not** eligible for overtime payments.
2. **NOTE:** Some positions may have different exemptions based upon level, salary amount or special circumstances. In these cases, the position control screen within AKPAY will reflect if the assigned work to an employee is FLSA exempt or not. However, the employee position screen will reflect the actual exemption. An example of where the position and employee screen may differ is the establishment of a letter of agreement (LOA) for an employee on reduced work hours, which consequently may change the salary exemption and make the incumbent overtime eligible.

F. Positions Eligible for Overtime by Collective Bargaining Agreement

Determine the overtime status of a position by first reviewing the current collective bargaining agreement language covering the position in question including any pertinent LOAs, letters of dispute resolution, or letters of grievance resolution. Collective bargaining agreements may specify that all or some positions will be eligible for overtime (e.g. the LTC agreement provides that all positions in the bargaining unit are eligible for overtime). In such cases, the allocation memo should indicate the basis for the position's eligibility.

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G. FLSA Guidelines

For positions that are not eligible for overtime by collective bargaining agreement, exemption and eligibility is determined by following FLSA guidelines. It is important to thoroughly read the FLSA regulations and their explanations as well as associated opinion letters and court decisions; however, an overview of the most common requirements is provided here.

1. Executive, Administrative, Professional, Computer Related Occupations

- a. Most State of Alaska positions which are exempt from FLSA provisions meet the criteria for one, or a combination, of the Executive, Administrative or Professional, aka “white collar” exemptions. These are defined and explained in Part 541 of Title 29, Chapter V Code of Federal Regulations.
- b. Combinations: A position may meet the criteria for more than one type of exemption. If so, all exemptions must be noted and documented in the analysis on the worksheet(s).

2. Discussion of Guidelines

- a. Before making determinations, review Title 29 Code of Federal Regulations, Part 541. The regulations define the relevant terms and provide examples of kinds of work that are not exempt. The regulations are available on the U.S. Department of Labor website which includes fact sheets and opinion letters.
- b. Carefully consider the overall level of responsibility, independence of action, authority to make decisions, kind and level of review of decisions, and how decision making may be restricted by regulations and procedures.
- c. In order to determine the **primary** duty (as defined by the U.S. Department of Labor), all facts in a position description must be considered. As a general guide, the primary duty involves a significant part of the employee's job. Also consider which of the position's duties are most important, the frequency with which the employee exercises discretionary powers, and the relative freedom from supervision.
- d. The analysis section of the FLSA worksheet should be used to specifically describe exempt duties and how they meet the standards for exemption.

3. Other FLSA Exemptions:

There are numerous other categories of employees who are exempt from FLSA. Some that are applicable to the State of Alaska are listed below. (Copies of memoranda are available from the Division of Personnel and Labor Relations (DOPLR).)

- a. **Authority:** Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et seq.), Sections 213(a)(1), 213(b)(1), and 213(a)(17).

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- b. **Administrative/Professional/Executive/Computer-Employee:** See title 29, Part 541 of the Code of Federal Regulations (29 CFR), Subparts B, C, and/or D. (Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees; Final Rule)
- c. **Employees on Vessels:** See Part 783, 29 C.F.R. Chapter V (Application of the Fair Labor Standards Act to Employees Employed As Seamen).
- d. **Fish Farming:** See Part 784, 29 C.F.R. Chapter V. (Provisions of the Fair Labor Standards Act Applicable To Fishing and Operations on Aquatic Products).
- e. **Fire Fighters:** See Part 541, 29 C.F.R. Chapter V, Subsection 541.3(b).

H. Alaska Administrative Manual: Authorization for Overtime Eligibility

- I. Pursuant to the Alaska Administrative Manual 270.100, a department head may petition the Commissioner of Administration to authorize overtime payments for overtime exempt employees in unusual situations. The Administrative Manual gives guidelines for consideration. Requests are submitted directly to the Commissioner of Administration. DOPLR reviews requests at the direction of the Commissioner of Administration.

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